

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**DAVID AGOADO, LEEANN MCNALLY,
CRAIG MOORE, CHRIS PIERRE,
THOMAS SHARKEY and DOREEN
VAZQUEZ**, individually and on behalf of all
others similarly situated,

Plaintiffs,

- against -

**MIDLAND FUNDING, LLC, MIDLAND
FUNDING, LLC DBA IN NEW YORK AS
MIDLAND FUNDING OF DELAWARE,
LLC, MIDLAND CREDIT
MANAGEMENT, INC., RUBIN &
ROTHMAN, LLC, FORSTER & GARBUS
LLP, COHEN & SLAMOWITZ, LLP and
PRESSLER AND PRESSLER LLP**

Defendants.

Civil Action No. 2:14-cv-00018-WFK-ST

**DECLARATION OF XENIA MURPHY
IN SUPPORT OF MIDLAND FUNDING,
LLC AND MIDLAND CREDIT
MANAGEMENT, INC.'S MOTION TO
SEAL**

I, Xenia Murphy, declare:

1. I am a Director, Legal Outsourcing, for Midland Credit Management, Inc. ("MCM") and a duly authorized representative of Midland Funding, LLC ("Midland Funding"). I am over 18 years of age and am competent to testify in this matter if called.

2. The statements made herein are based upon my personal knowledge of MCM's internal operating procedures; its practices and procedures with respect to law firms retained by MCM to recover monies owed to Midland Funding (the "Law Firms"); and the documents, information and records that are disseminated to the Law Firms. Any statements not made upon personal knowledge are based upon my review of MCM's and Midland Funding's business records.

3. MCM and Midland Funding are under the common ownership of Encore Capital Group, Inc. ("Encore"). Midland Funding is a passive buyer of distressed debt portfolios. These

portfolios often include charged off credit card debt. Midland Funding itself does not service the debt or engage in debt collection actions. Instead, Midland Funding contracts with MCM to service the debt acquired by Midland Funding.

4. The accounts to which Midland Funding takes title are purchased from debt sellers pursuant to terms and conditions provided in confidential purchase agreements.

5. At times, MCM places defaulted debt obligations with outside counsel (“Law Firms”) on behalf of Midland Funding for collection.

6. The Law Firms may file suit to recover accounts when, in the exercise of their professional judgment, suit is appropriate.

7. Many of MCM’s expectations regarding the performance of the Law Firms are set forth in MCM’s Firm Manual.

8. Filed under seal as Exhibit M-P and Bates stamped MCM-1055 to 1209 is a true and correct copy, with redactions to protect certain proprietary information, of excerpts from the MCM Firm Manual (“Firm Manual”).

9. The Firm Manual sets forth a Code of Conduct, Standard Operating Procedures and Training Manual for the Law Firms, which MCM obligates the Law Firms to abide.

10. The Firm Manual is a highly confidential, commercially sensitive document developed by MCM.

11. In a business involving debt purchasing, the “capital” consists of not only purchased accounts but also the company’s policies and procedures. Midland Funding has developed detailed policies and procedures that it uses to maximize the value of purchased accounts, and the Firm Manual sets forth a great deal of these policies and procedures.

12. Sharing the Firm Manual with third parties would risk Midland Funding's and MCM's competitive advantage. Accordingly, MCM allows access to the Firm Manual on a need-to-know basis only.

I certify under penalty of perjury that the foregoing is true and correct.

Dated: Kent, Rhode Island
December 3, 2021



Xenia Murphy (Dec 3, 2021 13:47 PST)

Xenia Murphy
Midland Credit Management, Inc.






Italiano - Murphy Declaration re Sealing MCM Firm Manual(63159963.1) (002)

Final Audit Report

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